

Louisiana Black Bear – Designation of Critical Habitat

Talking Points, Proposed Rule

Main Messages:

- The Service proposes to designate approximately 1,330,000 acres of critical habitat in Louisiana for the Louisiana black bear (*Ursus americanus luteolus*) under the Endangered Species Act. Concurrently, it is withdrawing its 1993 proposal for Louisiana black bear critical habitat
- The conservation strategy for this proposal is to: (1) reduce the extinction potential by providing the habitat in areas of sufficient composition and size to maintain the viability of existing core reproducing populations (as determined by breeding habitat); and (2) ensure the demographic vigor and genetic variability of existing populations by providing habitat of sufficient composition and location to provide areas of connectivity between adjoining populations.
- Normal forest management activities, as exempted when the bear was listed, will not be affected by this critical habitat designation.
- The Service is requesting public comment on this proposed rule and also whether the benefits of exclusion of any particular area from critical habitat would outweigh the benefits of inclusion under section 4(b)(2) of the Act. More specifically, whether U.S. Department of Agriculture (USDA) Wetland Reserve Program permanent easements on privately owned lands provide sufficient protection and management to satisfy the criteria necessary for exclusion from critical habitat.

Background:

- The Louisiana black bear was placed on the Federal List of Threatened and Endangered Wildlife, as a threatened species on January 7, 1992 (57 FR 588). It was listed due to extensive habitat loss and modification, ongoing threats of continued habitat modification, and human related mortality. Den and candidate dens trees in breeding habitat were afforded protection at that time under a 4(d) special rule.
- The Service determined that Louisiana black bear habitat needs were compatible with normal forest management activities and those activities were exempted from the “take” provisions under the ESA when this species was listed in 1992.
- The Service proposed critical habitat for the Louisiana black bear on December 2, 1993. We did not complete the 1993 proposed critical habitat designation due to budgetary constraints.

- The Service proposes this rule under a court order through a settlement agreement with plaintiffs, who filed suit against the Service for our failure to designate critical habitat for the Louisiana black bear.
- The Louisiana black bear is one of 16 subspecies of the American black bear (*Ursus americanus*). Louisiana black bear populations are currently found in the forest communities and associated habitats of the Lower Mississippi River Alluvial Valley in Louisiana and Mississippi.
- Currently Louisiana black bear breeding habitat is restricted to three, relatively isolated, core breeding populations and an additional, newly forming population, in Louisiana.
- Bear activity revolves primarily around the search for food, water, cover, and mates during the breeding season. Prime black bear habitat can be described as forested areas with relatively inaccessible terrain, thick understory vegetation, and abundant food sources in the forms of shrubs or tree-borne soft or hard mast.
- Bears are typically omnivorous. Their diet varies seasonally, and includes primarily succulent vegetation during spring, fruits and grains in summer and hard mast (such as acorns and pecans) during fall. The growth rate, maximum size, breeding age, litter size, and cub survival of black bears are all correlated with nutrition.
- Home range estimates for the Louisiana black bear range from approximately 11,000 to 80,000 acres for males and 4,000 to 8,000 acres for females.
- The recovery goals for the Louisiana black bear are to have: (1) at least two viable subpopulations, one each in the Tensas and Atchafalaya River Basins (Louisiana); (2) establishment of immigration and emigration corridors between the two subpopulations; and (3) protection of the habitat and interconnecting corridors that support each of the two viable subpopulations. Furthermore, the Service wants to ensure the species is self-sustaining in the wild and ultimately removed from the List of Endangered and Threatened Wildlife and Plants.
- A minimum viable population is one which has a 95 percent or better chance of persistence over 100 years.
- In the 16 years since the bear has been listed there have been no federal projects significantly affecting the bear's habitat. Furthermore, the Service and its many partners have been working since that time to protect or restore about 600,000 acres of Louisiana black bear habitat.

Proposed Rule:

- The Service proposes to designate critical habitat for the Louisiana black bear under the Endangered Species Act. Concurrently, it is withdrawing its 1993 proposal for Louisiana black bear critical habitat. In total, approximately 1,330,000 acres (538,894 hectares (ha)) in Louisiana fall within the boundaries of the proposed critical habitat designation.
- The Service's conservation strategy for this proposal is to: (1) reduce the potential for extinction by providing the habitat in areas of sufficient composition and size to maintain the viability of existing core reproducing populations (as determined by breeding habitat); and (2) ensure the demographic vigor and genetic variability of existing populations by providing habitat of sufficient composition and location to provide areas of connectivity between adjoining populations.
- The habitat these bears need to survive and thrive consists of hardwood forest areas having a diversity of age class and species and containing sources of hard mast (acorns and nuts) produced by such species as mature oaks, hickories, and pecan trees, and may include one or more of the following: (a) areas containing soft mast provided by a diversity of plant species, including blackberries, grapes, mulberry, sassafras, paw paw, occurring primarily in forest openings, on spoil banks, and in areas adjacent to forested habitat; (b) areas within forested habitat providing protein sources consisting of beetles, and other colonial insects found in rotting and decaying wood found on the forest floor; (c) grasses and sedges found in forest openings, on spoil banks with open canopies, and in vegetated areas adjacent to forested habitats; (d) secure areas for reproduction, winter dormancy, day bedding, and escape provided by den trees (bald cypress, overcup oak, American sycamore, etc); a thick understory found in some forested areas, shrub-scrub habitat, openings along spoil banks, vegetated areas adjacent to forests, or any vegetation that provides cover, limits visibility, slows foot travel, or creates noise when traversed; or, in early successional forests (0 to 12 years) with an open canopy and dense understory of shrubs, vines, and/or saplings. Vegetation such as palmetto, greenbriars, blackberry, dewberry, and downed trees also can provide cover for black bears.
- The habitat requirements for corridors consist of: (a) habitat patches 12 ac (5 ha) or greater in size; or (b) forested areas along waterways and sloughs greater than 150 ft (46 m) and having a diversity of plant species and age-classes of sufficient area, quality, and configuration, as described above, to provide dispersal habitat between breeding populations to maintain genetic variability and promote stable or increasing populations, including habitat supporting safe movement, foraging and denning.
- The Service does not anticipate this critical habitat designation to affect the exemption provided to normal timber management activities and the practice of those activities within critical habitat. The exemption was made in recognition of the fact that the Louisiana black bear, being a habitat generalist, does not

necessarily require old growth forests. We have no evidence to indicate that this was an incorrect decision.

- Existing agricultural activities would not be affected by the designation because agricultural lands would not be considered critical habitat.
- The Service is evaluating and requesting public comment on whether privately owned lands enrolled under USDA Wetland Reserve Program (WRP) permanent easements provide sufficient protection and management to satisfy the criteria necessary for exclusion from critical habitat. Currently, about approximately 53,487 acres (21,645 ha) of marginal agricultural land are known to be under a WRP permanent easement.
- Critical habitat is a tool within the Act which identifies areas that are essential for the conservation of the species and that may require special management considerations to ensure their contribution to the conservation of the species.
- Although critical habitat identifies important areas for a species' conservation, critical habitat does not set up a preserve or refuge, nor does it affect activities on private land unless federal funding or a federal permit is involved. The regulatory effect of the designation is that federal agencies must consult with the Service before undertaking actions, issuing permits or providing funding for activities that might destroy or adversely modify critical habitat.

Where We Go From Here:

- A 60-day comment period will follow publication of the proposed rule in the *Federal Register*, at which time the public can provide comments and request public hearings.
- Preparation of the draft economic analysis will begin following publication of the proposed designation, and a notice will be published in the *Federal Register* to allow the public to comment on both the economic analysis and, for a second time on the proposed rule.